

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18321
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On August 31, 2004, the staff of the Income Tax Audit Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing additional income tax and interest for the taxable year 2001 in the total amount of \$1,551.

On September 8, 2004, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not choose to have a hearing but rather provided additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer's 2001 Idaho individual income tax return was selected for review because his Idaho adjusted gross income was not the same as his federal adjusted gross income. The taxpayer filed an Idaho resident income tax return which requires Idaho taxable income to be the same as federal taxable income subject to Idaho modifications (Idaho Code section 63-3002). The Bureau sent the taxpayer letters asking him to explain the difference between his federal adjusted gross income and his Idaho adjusted gross income. The taxpayer failed to respond. The Bureau corrected the taxpayer's Idaho return and sent him a Notice of Deficiency Determination.

The taxpayer protested the Notice of Deficiency Determination in a letter that also itemized his income for the tax year 2001. In that letter, the taxpayer stated he lived and worked in Arkansas for the first two weeks of 2001. He then moved to Idaho in the middle of January and began working in Idaho in early February 2001. The taxpayer provided the income amounts

he received from sources in both Arkansas and Idaho and stated that the Arkansas income was reported to Arkansas.

The Bureau requested a copy of the taxpayer's Arkansas income tax return, which he provided. From this information, the Bureau computed a credit for taxes paid to Arkansas. The Bureau modified its determination of the taxpayer's 2001 Idaho income tax and sent the taxpayer notice of the modification with a request to withdraw his protest. The taxpayer responded that he still disagreed with the Bureau's findings. The taxpayer stated he filed his taxes with both Idaho and Arkansas and it is wrong for both states to be taxing the same income.

The Bureau referred the matter for administrative review, and the Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded that he would be unable to appear for a hearing, but in lieu of a hearing he provided additional information. The taxpayer restated that he moved from Arkansas in January 2001 after having lived there for 10 to 11 years. The taxpayer stated that in April 2001, he received a check from his previous employer's retirement fund for his share of a 401(k) profit-sharing plan. He said that since he had not lived in Idaho for six months, he was not a legal resident of Idaho when he received the 401(k) distribution.

Idaho Code section 63-3002 states that it is the intent of the Idaho legislature to impose a tax, measured by income, on the residents of Idaho on their income from all sources wherever derived. Idaho Code section 63-3013A states that a part-year resident is an individual who is not a resident and who has changed his domicile from Idaho or to Idaho during the taxable year. Therefore, when an individual moves into the state of Idaho, after the beginning of a taxable year, and establishes an Idaho domicile, he is a part-year resident, and from that moment

forward, he is considered a resident of Idaho. All income after becoming a resident of Idaho is reportable to Idaho regardless of its source.

The taxpayer moved to Idaho in January 2001 and apparently established an Idaho domicile when he moved. Therefore, any income he received after becoming an Idaho resident was reportable to Idaho. The taxpayer received the distribution from the 401(k) plan while he was a resident of Idaho. Consequently, that income is reportable to Idaho even though it came from an Arkansas source. However, since the taxpayer was a resident, any double taxed income would qualify for a credit for taxes paid to another state.

The return the taxpayer filed with Idaho was a full year resident return. The Bureau, in making its correction, did nothing to the taxpayer's residency status. However, as stated, the taxpayer did not move to Idaho until the middle of January 2001. The taxpayer worked and received wages for the two weeks he was in Arkansas in 2001. Therefore, the taxpayer should have filed a part-year resident return and should have computed his Idaho tax in accordance with Idaho Code section 63-3026A. Idaho Code section 63-3026A states that part-year residents are to prorate their standard deduction or itemized deductions and their exemptions in the ratio that Idaho adjusted gross income bears to total adjusted gross income. Since the taxpayer received income while residing in Arkansas, he needed to allocate his income between Idaho and Arkansas, and his standard deduction and personal exemption needed to be proportioned. The Tax Commission hereby makes those changes.

In addition to the changes the Tax Commission made to the taxpayer's reportable income, the Tax Commission found that the Bureau allowed a credit for taxes paid to Arkansas for all the income taxed by Arkansas. Idaho Code section 63-3029 states that a credit is allowed for the income tax imposed on an individual for the taxable year by another state on income that is also

subject to tax by Idaho. The only income subject to tax by both Arkansas and Idaho was the distribution from the 401(k) profit-sharing plan. The taxpayer's wages he earned while in Arkansas were not subject to tax by Idaho. Therefore, the credit for taxes paid to Arkansas is modified to account for only the income that was double taxed.

WHEREFORE, the Notice of Deficiency Determination dated August 31, 2004, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$999	\$230	\$1,229

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[REDACTED]

[REDACTED]
